

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Julian Phillips	Team: Squad #05	CCRB Case #: 201907149	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 08/09/2019 8:21 PM, Friday, 08/09/2019 9:52 PM	Location of Incident: § 87(2)(b) 81st Precinct stationhouse	Precinct: 81	18 Mo. SOL 2/9/2021	EO SOL 9/26/2021	
Date/Time CV Reported Mon, 08/12/2019 4:05 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 08/12/2019 4:05 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. An officer			
3. POM Kamrul Islam	29410	954964	081 PCT
4. POM Darrell Shannon	04053	925180	081 PCT
5. POM Sanjeev Kissoondyal	15333	956803	INT CIS
6. POM Joshua Smith	03249	949676	081 PCT
7. SGT Tinina Alexander	01710	951487	081 PCT
8. LT Matthew Cahill	00000	932397	081 PCT
9. POF Nicki Canady	02568	960316	081 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Shania Roach	22048	959936	081 PCT
2. POM Anthony Torres	09832	936087	081 PCT
3. POM Jake Hoina	07779	963572	081 PCT
4. POM Brian McGurran	07808	963643	081 PCT
5. POM Muhammad Alam	00234	966422	081 PCT
6. SGT James Mcsherry	03934	942175	075 PCT
7. POM Jonathan Forte	21722	962409	081 PCT
8. POM Alan Ye	01313	940930	081 PCT
9. POF Trinesha Alford	14297	957322	M E L D
10. POM Roberto Marmolejos	11277	966692	081 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
11. POM Daniel Song	21533	947503	INT CIS
12. SGT Yasin Elhaddad	3263	940123	081 PCT
13. POM Joseph Sferrazza	19468	951237	081 PCT
14. POM Daniel Trudnak	05270	957232	081 PCT
15. POM Soney Varghese	15438	957246	081 DET
16. POM Christian Angeron	14678	961619	081 PCT
17. POM Dragos Danetiu	30464	954698	081 PCT
18. POM William Gunderson	18154	954901	081 PCT
19. POM Christophe Mcgrane	16264	966702	100 PCT
20. POM Anthony Orlando	09744	964687	081 PCT
21. POM Justin Adetimirin	12522	965920	081 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Tinina Alexander	Abuse: At § 87(2)(b) in Brooklyn, Sergeant Tinina Alexander stopped § 87(2)(b)	
B.SGT Tinina Alexander	Abuse: At § 87(2)(b) in Brooklyn, Sergeant Tinina Alexander stopped § 87(2)(b)	
C.SGT Tinina Alexander	Abuse: At § 87(2)(b) in Brooklyn, Sergeant Tinina Alexander stopped § 87(2)(b)	
D.SGT Tinina Alexander	Abuse: At § 87(2)(b) in Brooklyn, Sergeant Tinina Alexander stopped § 87(2)(b)	
E.SGT Tinina Alexander	Abuse: At § 87(2)(b) in Brooklyn, Sergeant Tinina Alexander stopped § 87(2)(b)	
F.POM Kamrul Islam	Abuse: At § 87(2)(b) in Brooklyn, Police Officer Kamrul Islam stopped § 87(2)(b)	
G.POM Kamrul Islam	Abuse: At § 87(2)(b) in Brooklyn, Police Officer Kamrul Islam stopped § 87(2)(b)	
H.POM Kamrul Islam	Abuse: At § 87(2)(b) in Brooklyn, Police Officer Kamrul Islam stopped § 87(2)(b)	
I.POM Kamrul Islam	Abuse: At § 87(2)(b) in Brooklyn, Police Officer Kamrul Islam stopped § 87(2)(b)	
J.POM Kamrul Islam	Abuse: At § 87(2)(b) in Brooklyn, Police Officer Kamrul Islam stopped § 87(2)(b)	
K. An officer	Abuse: At § 87(2)(b) in Brooklyn, an officer frisked an individual.	
L.LT Matthew Cahill	Force: At § 87(2)(b) in Brooklyn, Lieutenant Matthew Cahill used physical force against § 87(2)(b)	
M.POM Kamrul Islam	Abuse: At § 87(2)(b) in Brooklyn, Police Officer Kamrul Islam threatened § 87(2)(b) with the use of force.	
N.POF Nicki Canady	Force: At § 87(2)(b) in Brooklyn, Detective Nicki Canady used physical force against § 87(2)(b)	
O. Officers	Abuse: At § 87(2)(b) in Brooklyn, officers failed to provide § 87(2)(b) with a business card.	

Officer(s)	Allegation	Investigator Recommendation
P. Officers	Abuse: At § 87(2)(b) in Brooklyn, officers failed to provide § 87(2)(b) with a business card.	
Q. Officers	Abuse: At § 87(2)(b) in Brooklyn, officers failed to provide § 87(2)(b) with a business card.	
R. Officers	Abuse: At § 87(2)(b) in Brooklyn, officers failed to provide § 87(2)(b) with a business card.	
S. Officers	Abuse: At § 87(2)(b) in Brooklyn, officers failed to provide § 87(2)(b) with a business card.	
T. An officer	Abuse: At the 81st Precinct stationhouse, an officer threatened to arrest § 87(2)(b)	
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	

### Case Summary

On August 12, 2019, § 87(2)(b) filed this complaint with the CCRB via telephone.

On August 9, 2019, at approximately 8:21 p.m., in the courtyard of § 87(2)(b) in Brooklyn, Sergeant Tinina Alexander and Police Officer Kamrul Islam, both of the 81<sup>st</sup> Precinct, stopped § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) (**Allegations A-J: Abuse of Authority, § 87(2)(g)**). An officer allegedly frisked an unknown member of this group (**Allegation K: Abuse of Authority, § 87(2)(g)**). Officers moved to arrest § 87(2)(b) after discovering that he had an open I-Card, which precipitated a physical struggle in which Lieutenant Matthew Cahill of the 81<sup>st</sup> Precinct executed a forcible takedown against § 87(2)(b) (**Allegation L: Force, § 87(2)(g)**) and Police Officer Kamrul Islam of the 81<sup>st</sup> Precinct threatened to use a Taser against § 87(2)(b) (**Allegation M: Abuse of Authority, § 87(2)(g)**). Police Officer Nicki Canady of the 81<sup>st</sup> Precinct pushed § 87(2)(b) back from the struggle and shoved her a second time as officers were escorting § 87(2)(b) away from the scene (**Allegation N: Force, § 87(2)(g)**). None of the officers provided business cards to § 87(2)(b) § 87(2)(b) § 87(2)(b) or § 87(2)(b) (**Allegations O-S: Abuse of Authority, § 87(2)(g)**).

§ 87(2)(b) was arrested for the charges from his I-Card. He was also arrested on charges of resisting arrest and criminal mischief in the third degree, because he allegedly kicked and damaged one of the building's doors as the officers escorted him from the scene (**Board Review 56**).

§ 87(2)(b) and § 87(2)(b) subsequently went to the 81<sup>st</sup> Precinct stationhouse to ask about § 87(2)(b) where an officer told § 87(2)(b) that she could be arrested if she did not cease filming inside the stationhouse (**Allegation T: Abuse of Authority, § 87(2)(g)**).

§ 87(2)(g), § 87(4-b)

The investigation obtained BWC footage (**Board Review 01-18, summarized at Board Reviews 60-76**) and cellphone footage (**Board Review 19, summarized at Board Review 58**).

Sgt. Alexander has since been reassigned to the 81<sup>st</sup> Precinct Detective Squad. PO Canady has since been promoted to detective.

### Findings and Recommendations

- **Allegation (A) Abuse of Authority: At § 87(2)(b) in Brooklyn, Sergeant Tinina Alexander stopped § 87(2)(b)**
- **Allegation (B) Abuse of Authority: At § 87(2)(b) in Brooklyn, Sergeant Tinina Alexander stopped § 87(2)(b)**
- **Allegation (C) Abuse of Authority: At § 87(2)(b) in Brooklyn, Sergeant Tinina Alexander stopped § 87(2)(b)**

- **Allegation (D) Abuse of Authority: At** § 87(2)(b) **in Brooklyn, Sergeant Tinina Alexander stopped** § 87(2)(b)
- **Allegation (E) Abuse of Authority: At** § 87(2)(b) **in Brooklyn, Sergeant Tinina Alexander stopped** § 87(2)(b)
- **Allegation (F) Abuse of Authority: At** § 87(2)(b) **in Brooklyn, Police Officer Kamrul Islam stopped** § 87(2)(b)
- **Allegation (G) Abuse of Authority: At** § 87(2)(b) **in Brooklyn, Police Officer Kamrul Islam stopped** § 87(2)(b)
- **Allegation (H) Abuse of Authority: At** § 87(2)(b) **in Brooklyn, Police Officer Kamrul Islam stopped** § 87(2)(b)
- **Allegation (I) Abuse of Authority: At** § 87(2)(b) **in Brooklyn, Police Officer Kamrul Islam stopped** § 87(2)(b)
- **Allegation (J) Abuse of Authority: At** § 87(2)(b) **in Brooklyn, Police Officer Kamrul Islam stopped** § 87(2)(b)

At the time of the incident, § 87(2)(b) § 87(2)(b) and § 87(2)(b) resided at § 87(2)(b) which is an apartment complex with a large interior courtyard that contains, among other things, a playground.

§ 87(2)(b) (**Board Review 20**) and § 87(2)(b) (**Board Review 21**) testified that their eight-year-old niece informed them that officers had stopped their son, § 87(2)(b) and § 87(2)(b) went outside and saw that officers had stopped their son and other men (identified by the investigation as § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b) and § 87(2)(b) did not witness what the group was doing prior to the officers' approach.

§ 87(2)(b) (**Board Review 22**) provided a brief telephone statement about the incident but was uncooperative in providing a verified statement. § 87(2)(b) stated that he and his friends were hanging out and speaking to one another in the courtyard. He denied that he or his friends were doing anything else. § 87(2)(b) specifically denied that anyone in the group made physical contact with one another, smoked anything, or gambled, prior to the officers stopping them. PO Canady, PO Islam, and PO Kissoondyal approached the group. PO Islam stated that he had seen video footage of the group smoking several days previously and would be issuing them summonses. § 87(2)(b) attempted to walk away, and PO Islam informed him that he was not free to go.

§ 87(2)(b) (**Board Review 23**) provided a brief telephone statement about the incident but was uncooperative in providing a verified statement. § 87(2)(b) stated that he and his friends were hanging out in the courtyard and he did not otherwise recall what they were doing, although he denied that anyone smoked or rolled dice. Two officers approached and asked one of § 87(2)(b) friends for identification. Several minutes later, additional officers approached, including Lt. Cahill, PO Islam, and PO Canady, and asked the remaining members of the group for their identifications.

§ 87(2)(b) (**Board Review 24**) provided a brief telephone statement about the incident but was uncooperative in providing a verified statement. § 87(2)(b) stated that he and his friends were

hanging out in the courtyard, and he denied that anyone rolled dice. PO Canady, PO Kissoondyal, and Lt. Cahill approached the group, and PO Canady informed them that they could not leave.

The investigation was unable to establish contact with § 87(2)(b) or § 87(2)(b).

PO Islam was interviewed approximately one year after the incident. He testified (**Board Review 25**) that, in his capacity as a Neighborhood Coordination Officer, he had become aware of repeated complaints from residents and staff of the apartment complex that men were congregating and gambling in a specific area of the courtyard. One of the complaints specifically identified § 87(2)(b) as one of the perpetrators. PO Islam and Sgt. Alexander organized an operation to address these complaints. PO Islam and Sgt. Alexander hid inside the building's laundry room, where PO Islam surveilled the courtyard with binoculars through a window, while other officers waited nearby for communication from PO Islam and Sgt. Alexander.

Through the binoculars, PO Islam saw § 87(2)(b), § 87(2)(b), § 87(2)(b), and § 87(2)(b) standing in the courtyard. He recognized all of them and he knew § 87(2)(b) and § 87(2)(b) names. He knew that § 87(2)(b) and § 87(2)(b) were residents of the apartment complex. PO Islam watched the group for at least ten minutes. During that time, he saw a member of the group holding dice, but he could not describe this person during his CCRB interview. PO Islam confirmed, however, that he never actually saw any member of the group roll dice or exchange currency. Based on these observations, PO Islam suspected the group of loitering for the purpose of gambling. PO Islam testified that he knew that it was not illegal to possess dice generally, but that it was illegal to possess dice for the purpose of gambling. PO Islam did not suspect any other infractions. PO Islam informed Sgt. Alexander that he had observed the group “hanging out ready to roll dice,” and he articulated that he planned to approach and stop them. PO Islam and Sgt. Alexander approached the group, followed by other officers, and PO Islam asked them all to hand over their identifications. PO Islam and other officers ran searches using the identifications, to determine if any of the stopped individuals had open warrants. PO Islam ultimately did not take any enforcement action—he eventually returned the identifications and warned the group that he would not use his discretion to release them in the future if he received further complaints of gambling in the courtyard.

PO Islam's memo book entry about the incident only lists “four males stopped” during the incident: § 87(2)(b), § 87(2)(b), § 87(2)(b), and § 87(2)(b) (**Board Review 79**). There is no mention of § 87(2)(b). However, as will be discussed later, BWC footage shows that § 87(2)(b) was among the males stopped, and an officer ran a warrant search for him.

PO Islam did not prepare individual Stop Reports for any of the men. Instead, he prepared a single Stop Report (**Board Review 34**) which listed § 87(2)(b) as the main civilian stopped, which noted that five other persons were stopped, and which merged the reasoning for stopping the men with the reasoning for later stopping § 87(2)(b). The narrative portion states, “Individuals were stopped for loitering for the purpose of gambling and to verify whether they were residents or guests of residents accompanied by the resident. Individuals were loitering at a location where there had been numerous complaints of gambling/rolling dice.” The narrative then goes on to recount that officers quickly saw § 87(2)(b) and knew him to

have an active I-Card. The report does not describe any observations about the alleged victims other than that they were “loitering” at the location. The rest of the information on the report pertains to § 87(2)(b) and not to the alleged victims—it records § 87(2)(b) physical description, whether he was frisked or searched, whether he was given a business card, and the crime for which he was ultimately arrested.

Sgt. Alexander was interviewed approximately 13 months after the incident. She confirmed that the incident was a “Quality of Life Operation” in response to community complaints about noise, gambling, fighting, and marijuana consumption in the courtyard (**Board Review 26**). The plan was for PO Islam to surveil the courtyard with binoculars and to watch for quality of life infractions, while another team of officers waited nearby. PO Islam surveilled the courtyard for approximately one hour before he told Sgt. Alexander that he had seen a group of individuals committing a quality of life offense. At the time of the CCRB interview, Sgt. Alexander could not recall what specific infraction PO Islam said he had seen, nor could she recall generally what PO Islam told her he observed through the binoculars beyond that he saw an infraction. Sgt. Alexander decided that the officers would “move in to the courtyard.” Sgt. Alexander testified that NCOs generally communicate through their radios’ tactical channel, but she could not recall specifically if they used this to communicate with the waiting team of officers during this incident.

At the time of her CCRB interview, Sgt. Alexander testified that she could not recall if officers formally stopped the alleged victims. She recounted that other officers were already speaking to the male individuals by the time she and PO Islam entered the courtyard. She did not know which officer or officers first approached the male individuals, nor could she recall how the officers knew to approach those specific individuals. She did not speak to, or otherwise interact with, the alleged victims during this time.

Sgt. Alexander’s memo book entries regarding the incident refer to: “...6 stopped in courtyard” (**Board Review 78**).

The remaining officers were interviewed between approximately 13 months and 19 months after the incident. Lt. Cahill (**Board Review 27**), PO Canady (**Board Review 28**), PO Kissoondyal (**Board Review 29**), PO Roach (**Board Review 30**), PO Torres (**Board Review 31**), PO Shannon (**Board Review 32**), and PO Smith (**Board Review 33**) generally testified that they were sent to the courtyard to address an infraction, but they differed on the details. Lt. Cahill recalled another officer informing him that Sgt. Alexander had observed a group gambling at the incident location. PO Canady recalled Lt. Cahill informing her that PO Islam had stopped the group and needed assistance, and she recalled subsequently learning that PO Islam had observed them rolling dice. PO Kissoondyal recalled observing members of the group gambling and smoking marijuana when he arrived on scene, prompting him to quickly approach with other officers; he had no recollection of anyone surveilling the courtyard beforehand. PO Roach recalled being summoned to the location via radio because officers had observed the group commit an infraction and needed to be stopped, but she did not recall which infraction was reported. PO Torres recalled being summoned to the location via radio and observing that the group was stopped, but he did not recall learning why they had been stopped. PO Shannon recalled being summoned to the location via radio because officers had stopped the group, potentially for marijuana possession. PO Smith

recalled being summoned to the location via radio to provide assistance, but he did not recall whether a specific infraction was reported.

Neither the cellphone footage, nor any of the BWC footage, captured the moments prior to the stop. As noted above, none of the officers who first approached the men activated their BWCs early enough—their BWC footage begins after a group of officers is already standing around the men and speaking to them. PO Islam’s footage (**Board Review 04**) shows that the other officers had already approached the men when he arrived in the courtyard, and he immediately pointed at them and announced, “I need everyone’s ID.” PO Islam informed the group that he had stopped them for loitering and further informed them that they had a history of gambling at the location, although he acknowledged to them that they were not gambling at that moment. Sgt. Alexander did not activate her BWC until after she was already in the courtyard and standing near the men. Additional BWC clips show officers obtaining identification from § 87(2)(b) § 87(2)(b) and § 87(2)(b).

Although the investigation was unable to learn exactly what PO Islam told Sgt. Alexander he had seen through the binoculars, or to determine exactly what either of them subsequently communicated by radio to the waiting team of officers, the totality of the evidence makes clear that both PO Islam and Sgt. Alexander led those officers to believe that they should stop the group of men and that there was sufficient cause to do so. Their plan was to wait until they saw an infraction committed and then to notify the other officers to make a stop, PO Islam clearly believed that he had seen the men commit an infraction, and the other officers first approached the men before PO Islam and Sgt. Alexander arrived from their hidden location in the laundry room. While Sgt. Alexander testified at her CCRB interview that she could not recall whether the men were even stopped, her memo book notes that multiple individuals were stopped, and the BWC footage shows that she was present and watching as her officers took identification cards from the men. As a result, the investigation concluded that she was directly supervising PO Islam at the time and that she shared responsibility with him for the stops.

Patrol Guide Procedure 212-11 (**Board Review 77**) states that an officer may stop an individual only when the officer has an individualized reasonable suspicion that the person stopped has committed, is committing, or is about to commit a felony or Penal Law misdemeanor. Reasonable suspicion exists when the information known to the officer would make an ordinarily prudent and cautious officer believe, under the circumstances, that a felony or Penal Law misdemeanor has been, is being, or is about to be committed. The officer must have a particularized and objective basis for suspecting the stopped individual of the criminal conduct. The officer must be able to articulate specific facts establishing justification for the stop; hunches or gut feelings are not sufficient.

An officer who witnesses an individual rolling dice while holding money can reasonably conclude that this individual is loitering for the purpose of gambling. People v. Wilder, 38 A.D.3d 263 (**Board Review 35**). The presence of dice, standing alone, is not sufficient to provide reasonable cause that an individual committed loitering for the purpose of gambling absent facts indicating that anyone has staked or risked anything of value. New York v. Hawkins, 1 Misc. 3d 905(A) (**Board Review 36**).



It is clear that PO Islam did not have reasonable suspicion, much less probable cause, that the men were committing the infraction of loitering for the purpose of gambling, as he merely saw someone holding dice in an area with prior gambling complaints. He did see anyone rolling dice, he not see any member of the group holding currency, and he saw nothing to indicate that anyone in the group was staking or risking anything of value. As such, PO Islam incorrectly concluded that there was sufficient basis to stop the men. Sgt. Alexander joined PO Islam in communicating to other officers that they should stop the men, and she similarly lacked sufficient justification to do so. Moreover, as PO Islam's direct supervisor in the surveillance operation, Sgt. Alexander was responsible for ensuring that any resulting stops were in compliance with the Patrol Guide.

§ 87(2)(g)

**Allegation (K) Abuse of Authority: At § 87(2)(b) in Brooklyn, an officer frisked an individual.**

§ 87(2)(b) testified that, when he arrived in the courtyard, he observed an officer, whom he could not describe, frisk the pocket of one of the teens, whom he also could not describe.

§ 87(2)(b) testified that she did not witness officers frisk anyone.

§ 87(2)(b) stated that officers frisked him and the other members of the group, but he could not describe the officers who did so or provide a more detailed account of which officers interacted with which members of the group. § 87(2)(b) stated that, after arriving on the scene, PO Islam frisked him and the other members of the group. § 87(2)(b) stated that one of the two initial officers who approached the group frisked him, and that officers also frisked multiple other members of the group. He did not provide a more detailed account of this portion of the incident. As mentioned above, neither § 87(2)(b) nor § 87(2)(b) nor § 87(2)(b) provided sworn testimony to the investigation.

Sgt. Alexander, Lt. Cahill, PO Canady, PO Islam, PO Kiskoondyal, PO Torres, PO Shannon, and PO Smith all testified either that they did not recall or that they did not witness frisks of any of the men. PO Roach testified that she believed that the men were frisked, but she did not recall the details of this or which officers may have been involved. PO Islam's Stop Report only notes that officers frisked and searched § 87(2)(b) after apprehending him—it has no information regarding whether any other frisks occurred.

The BWC footage does not capture any frisks taking place. The footage begins with the arrival of PO Islam, PO Roach, and other Neighborhood Coordination Officers on the scene, shortly after Lt. Cahill, PO Canady, and PO Kiskoondyal stopped the group. The cellphone footage also did not capture this portion of the incident.

§ 87(2)(b) could neither describe the subject officer nor the alleged victim, and the video footage did not show any frisks. § 87(2)(g)

§ 87(2)(g)

**Allegation (L) Force: At § 87(2)(b) in Brooklyn, Lieutenant Matthew Cahill used physical force against § 87(2)(b)**

**Allegation (M) Abuse of Authority: At § 87(2)(b) in Brooklyn, Police Officer Kamrul Islam threatened § 87(2)(b) with the use of force.**

§ 87(2)(b) testified that Lt. Cahill approached him and ordered him to put his hands behind his back. § 87(2)(b) replied that he could not put his hands behind his back due to a recent surgery. Lt. Cahill attempted to grasp § 87(2)(b) right arm, and § 87(2)(b) pulled his arm away and raised a clenched fist. Lt. Cahill and other officers brought § 87(2)(b) to the ground. § 87(2)(b) landed on his front with his arm pinned beneath him, preventing § 87(2)(b) from putting the arm behind his back as ordered. § 87(2)(b) denied doing anything to resist the officers. PO Islam stated that he would use his Taser against § 87(2)(b). Officers handcuffed § 87(2)(b) within a few minutes.

§ 87(2)(b) testified that he suffered injuries to his knees during his apprehension, and injuries to his wrists and left forearm from the handcuffs. At his CCRB interview, he displayed healing scrapes on both knees (**Board Reviews 80-81**). He went to an Urgent Care six days after the incident with a primary complaint of right shoulder pain which had been present for two months, and he also complained of bruising on his left knee (**see Privileged Records**). His records merely show that he had tenderness in his left knee and limited range-of-motion in his right shoulder.

Lt. Cahill testified that, when he first approached § 87(2)(b) and conveyed that he was under arrest, § 87(2)(b) stepped back, refused to put his arms behind his back, and pulled away when Lt. Cahill attempted to handcuff him. Lt. Cahill decided to bring § 87(2)(b) to the ground in order to prevent § 87(2)(b) from pulling away or shoving officers, and in order to quickly apprehend § 87(2)(b) before bystanders could involve themselves in the struggle. Lt. Cahill brought § 87(2)(b) to the ground. On the ground, § 87(2)(b) tensed his arms, initially preventing the officers from handcuffing him, before the officers successfully pulled his arms behind his back and applied the handcuffs.

PO Islam's testimony was largely consistent with that of Lt. Cahill. PO Islam testified that, while on the ground, § 87(2)(b) was not compliant in putting his hands behind his back to be handcuffed, and PO Islam warned him that he could be tasered if he did not comply. Lt. Cahill and PO Islam created TRI reports which were consistent with their testimony (**Board Reviews 82-83**).

The arrest of § 87(2)(b) is captured most clearly in the cellphone video footage recorded by § 87(2)(b) (**Board Review 19**, beginning at 02:05). The footage shows that, after Lt. Cahill ordered § 87(2)(b) to put his hands behind his back, § 87(2)(b) quickly walked backwards and moved his arms and hands. Lt. Cahill and other officers grasped hold of § 87(2)(b) and brought him to the ground, where he continued to struggle and

state verbally that he could not put his arms behind his back. PO Islam stated, “I’m going to Tase you.” The footage further captures § 87(2)(b) approaching the struggle and yelling at the officers.

§ 87(2)(b) testimony and the video footage make clear that he physically resisted the officers’ attempts to handcuff him prior to his being taken to the ground.

Patrol Guide Procedure 221-01 (Board Review 37) states that physical force may be used to place a defendant in custody. All force must be reasonable under the circumstances, and the reasonableness of the force may be assessed by factors including whether a subject is resisting arrest, the severity of the underlying crime, the subject’s violent history, and the presence of hostile agitators. Patrol Guide Procedure 221-08 (Board Review 57) states that a Taser can only be used against persons who are actively resisting or exhibiting active aggression. Active resistance includes “physically evasive movements to defeat a member of the service’s attempt at control, including bracing, tensing, pushing.” Active aggression is a “threat or overt act of assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent.” Officers should “issue, if possible, an appropriate verbal warning...to the intended subject and other members of the service present prior to discharging the CEW.”

The preponderance of the evidence shows that § 87(2)(b) responded to an order to put his hands behind his back by attempting to walk away and grappling with the officers. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation (N) Force: At § 87(2)(b) in Brooklyn, Detective Nicki Canady used physical force against § 87(2)(b)**

§ 87(2)(b) testified that, as she was watching the officers arrest § 87(2)(b) PO Canady approached her, placed a hand on her shoulder, and shoved her backwards, causing § 87(2)(b) to stumble and strike her leg against a wall. As the officers were escorting § 87(2)(b) from the scene, § 87(2)(b) followed the officers. PO Canady approached § 87(2)(b) placed a hand or hands on § 87(2)(b) upper body, and shoved § 87(2)(b) causing her to move backwards.

PO Canady initially testified that she did not recall § 87(2)(b) approaching the officers struggling with § 87(2)(b) and denied shoving § 87(2)(b) back. PO Canady further testified that, as the officers were escorting § 87(2)(b) out of the courtyard, § 87(2)(b) grasped hold of Lt. Cahill, prompting PO Canady to pull § 87(2)(b) backwards. PO Canady denied shoving § 87(2)(b) at this time. Upon reviewing video footage of the incident,

PO Canady stated that the footage refreshed her recollection that § 87(2)(b) approached the struggle and that PO Canady held out her arm to keep § 87(2)(b) back, but denied shoving § 87(2)(b).

PO Shannon's BWC footage (**Board Review 10**) captures the two interactions between PO Canady and § 87(2)(b). At 09:15, the footage shows that PO Canady pressed her hand against § 87(2)(b) torso as § 87(2)(b) approached the officers struggling with § 87(2)(b), prompting § 87(2)(b) to stumble and to yell that PO Canady had pushed her. At 10:40, the footage shows that § 87(2)(b) attempted to walk among the officers who were escorting § 87(2)(b) through a doorway out of the courtyard. PO Canady stood in § 87(2)(b) path and directed her to stop following the officers. The footage confirms that PO Canady touched § 87(2)(b) with her hands and moved her backward, though it does not clearly show a distinct shove as described by § 87(2)(b).

NYPD Patrol Guide Procedure 221-01 (Board Review 37) states that physical force may be used to ensure the safety of a member of service or a third person, provided that this force is reasonable under the circumstances.

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
The physical contact PO Canady made with § 87(2)(b) was brief, measured, and largely incidental to merely ensuring that she did not encroach upon the other officers. § 87(2)(g)

**Allegation (O) Abuse of Authority: At § 87(2)(b) in Brooklyn, officers failed to provide § 87(2)(b) with a business card.**

**Allegation (P) Abuse of Authority: At § 87(2)(b) in Brooklyn, officers failed to provide § 87(2)(b) with a business card.**

**Allegation (Q) Abuse of Authority: At § 87(2)(b) in Brooklyn, officers failed to provide § 87(2)(b) with a business card.**

**Allegation (R) Abuse of Authority: At § 87(2)(b) in Brooklyn, officers failed to provide § 87(2)(b) with a business card.**

**Allegation (S) Abuse of Authority: At § 87(2)(b) in Brooklyn, officers failed to provide § 87(2)(b) with a business card.**

It is undisputed that no officer provided a business card to § 87(2)(b) § 87(2)(b) § 87(2)(b) or § 87(2)(b).

Sgt. Alexander, Lt. Cahill, PO Canady, PO Islam, PO Kiskoondyal, PO Roach, PO Torres, PO Shannon, and PO Smith all testified either that they did not issue business cards because they were not interacting with the group, or that they could not do so because of the chaotic struggle with § 87(2)(b) which required them to exit the courtyard immediately after handcuffing him to prevent further conflict with bystanders.

NYPD Patrol Guide Procedure 203-09 (Board Review 38) and NYC Administrative Code 14-174 (Board Review 84) state that officers must provide business cards following pedestrian

stops, unless exigent circumstances such as physical resistance or imminent danger of physical injury are present.

PO Islam's BWC footage (**Board Review 04**, beginning at 07:45) shows that PO Islam issued verbal warnings to § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) as he returned their identifications. As PO Islam was speaking to the group, Lt. Cahill and other officers began struggling with § 87(2)(b). At that point, the officers' attention moved to the physical struggle and the subsequent crowd that gathered.

As the officers began to struggle to arrest § 87(2)(b) when PO Islam was giving verbal warnings to § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(g)

**Allegation (T) Abuse of Authority: At the 81st Precinct stationhouse, an officer threatened to arrest § 87(2)(b)**

§ 87(2)(b) alleged that, after § 87(2)(b) arrest, she and her daughter, § 87(2)(b) went to the 81<sup>st</sup> Precinct stationhouse and spoke to an officer at the desk. § 87(2)(b) was filming with her cellphone at the time. The officer at the desk told her that she could be arrested if she did not stop filming inside the stationhouse, and § 87(2)(b) stopped filming.

§ 87(2)(b) provided a brief telephone statement to the CCRB (**Board Review 39**), which was consistent with § 87(2)(b) statement.

NYPD Patrol Guide Procedure 203-29 (Board Review 40) states that members of the public are not allowed to photograph and/or record police activity within Department facilities. Members of the service may order any member of the public who is photographing or recording within Department facilities to stop such activity. If such person refuses to stop, they then should be ordered to leave the premises. If such person refuses to leave the premises, members of the service may take proper enforcement action under the trespass statutes.

If § 87(2)(b) had remained inside the stationhouse and refused to cease filming, she could have been arrested for trespassing. § 87(2)(g)

- § 87(2)(g), § 87(4-b)

- § 87(2)(g), § 87(4-b) [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

§ 87(2)(g), § 87(4-b) [REDACTED]

§ 87(2)(b) [REDACTED]

[REDACTED]

[REDACTED]

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) [REDACTED] has been party (Board Review 41).
- This is the first CCRB complaint to which § 87(2)(b) [REDACTED] has been party (Board Review 42).
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]

- § 87(2)(b) [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- § 87(2)(b) [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- This is the first CCRB complaint to which § 87(2)(b) [REDACTED] has been party (**Board Review 47**).
- This is the first CCRB complaint to which § 87(2)(b) [REDACTED] has been party (**Board Review 48**).
- Sgt. Alexander has been a member of the NYPD for nine years and has been a subject in five other CCRB complaints and seven allegations, none of which was substantiated. § 87(2)(b) [REDACTED]
- Lt. Cahill has been a member of the NYPD for 17 years and has been a subject in 11 other CCRB cases and 32 allegations, of which three were substantiated:
  - 200507025 involved a substantiated allegation of a baton strike against Lt. Cahill. The Board recommended Charges, and Lt. Cahill was found not guilty at trial.
  - 201507838 involved substantiated allegations of property seizure and detention against Lt. Cahill. The Board recommended Command Discipline A, and the NYPD imposed Command Discipline A.
- PO Canady has been a member of the NYPD for five years and has been a subject in 10 other CCRB cases and 33 allegations, none of which was substantiated. § 87(2)(g) [REDACTED]
- PO Islam has been a member of the NYPD for seven years and this is the first CCRB complaint to which he has been a subject.

#### **Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- § 87(2)(b) [REDACTED] filed a Notice of Claim with the City of New York claiming personal injury, pain and suffering, assault, and wrongful arrest and seeking five million dollars a redress (**Board Review 49**). A 50H hearing was held on February 4, 2020.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(e)] [REDACTED]
- [REDACTED]

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]
- [REDACTED]  
[REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]  
[REDACTED]

Squad No.: 5

Investigator:	<u>DG</u>	<u>IM Giansante for SI Phillips</u>	<u>June 15, 2021</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Daniel Giansante</u>	<u>IM Daniel Giansante</u>	<u>June 15, 2021</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date